

REMARKS

Claim 1 was rejected under § 103(a) as being unpatentable over Manchala. The Examiner concedes that Manchala does not disclose completing a plurality of on-line sales transactions. Nevertheless, in the Office Action, it is concluded that it would be obvious to modify Manchala. However, the proposed modifications are generally based on unsupported conclusions regarding what is considered “common knowledge”. *See*, Paper 22, page 2. Because the rejections are not supported by proper evidence, a *prima facie* case of obviousness has not been established.

In limited circumstances, it may be appropriate for an examiner to rely on “common knowledge” to make a rejection. M.P.E.P. § 2144.03. However, these types of rejections should be judiciously applied. *Id.* For example, it “is never appropriate to rely solely on ‘common knowledge’ in the art without evidentiary support in the record, as the principal evidence upon which a rejection is based.” *Id.* (citations omitted.) That is, “there must be some form of evidence in the record to support an assertion of common knowledge.” *Id.* Where official notice is taken of a fact that is unsupported by documentary evidence, “the basis for the reasoning must be set forth explicitly. The examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge.” *Id.* Further, “if the examiner is relying on personal knowledge, the examiner must provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding.” *Id.*

In the present case, evidence and/or specific factual findings predicated on sound technical and scientific reasoning has not been provided. Rather, the Examiner concludes that there are “electronic commerce means” available at the time of the invention that would be “common knowledge” without even stating what those means are. Thus, the assertion of what constitutes “common knowledge” is respectfully traversed. The Examiner is respectfully requested to support his assertions of common knowledge as required by the M.P.E.P.

Claim 1 calls for receiving an electronic indication of an inventory allocation, completing a plurality of on-line sales transactions against the allocation, and in response to the depletion of the allocation, automatically requesting an additional inventory allocation. Thus, in some embodiments a distributor may receive a known quantity of an inventory that is reserved for his or her distribution. That distributor may then be confident that if the distributor completes on-line sales against the inventory, the inventory will be available. Further, when the allocation is depleted, an automatic request for an additional inventory allocation may be generated. Thus, a fully automated system may be realized in some embodiments.

Manchala does not specifically disclose completing a plurality of on-line sales transactions. *See*, Paper No. 22, page 2. Further, there is no suggestion or motivation to modify Manchala to complete a plurality of on-line sales transactions against an inventory allocation. For example, Manchala deals with re-ordering consumable items such as printer toner or paper. 4:16-17. In this way, the consumable goods may be delivered to a customer to maintain its inventory. 5:3-7. That is, the customer that receives the consumable goods uses the goods i.e. printer paper or toner. Thus, Manchala does not provide a suggestion or motivation for modification. Further, “electronic commerce” in and of itself does not provide a suggestion or motivation to modify Manchala. Accordingly, a *prima facie* case of obviousness has not been established with respect to claim 1 and claims dependent thereon.

Independent claim 10 calls for, in part, a medium for storing instructions that enable a computer to complete a plurality of on-line sales transactions against an allocation (of inventory). As explained above, there is no reason to modify Manchala to complete a plurality of on-line sales transactions against an allocation (of inventory). Likewise, there is no suggestion or motivation to modify Manchala to do so via a computer. Thus, for at least these additional reasons, a *prima facie* case of obviousness has not been established with respect to independent claim 10 and claims dependent thereon.

Independent claim 19 calls for a server that completes a plurality of on-line sales transactions against an electronic indication of an inventory allocation. As explained above, Manchala does not teach on-line sales transactions against an (inventory) allocation. For at least the same reasons, it is submitted that there is no suggestion or motivation to modify Manchala to have a server that completes a plurality of on-line sales transactions against an electronic indication of an inventory allocation. Thus, a *prima facie* case of obviousness has not been established with respect to claim 19 and claims dependent thereon.

Independent claim 23 calls for providing an electronic allocation of an inventory allocation to an on-line sales transaction service, receiving a request from the on-line sales transaction service for an additional inventory allocation, and providing the on-line sales transaction service with an additional inventory allocation.

The Examiner states that Manchala does not specifically disclose completing a plurality of on-lines sales transactions. Hence, it is respectfully submitted that Manchala fails to disclose an on-line sales transaction service. For example, the consumer of goods in Manchala does not resell its inventory once received from a vendor. Thus, the consumer does not make sales against its inventory much less do so on-line.

It was explained above that there is no suggestion or motivation to modify Manchala to complete a plurality of on-line sales transactions against an allocation (of inventory). Likewise, there is no suggestion or motivation to modify Manchala to include an on-line sales transaction service. As such, it is respectfully submitted that a *prima facie* case of obviousness has not been established with respect to claim 23 or claims dependent thereon.


Independent claim 26 calls for a medium that stores instructions that enable a computer to provide an electronic indication of an inventory allocation to an on-line sales transaction service, receive a request from the on-line sales transactions service for an additional inventory allocation, and provide the on-line sales transaction service with an additional inventory allocation in response to the request. As was explained above, there is no suggestion or motivation to modify Manchala to include an on-line sales transaction service. Thus, there is no suggestion or motivation to do so via a computer. Accordingly, a *prima facie* case of obviousness has not been established with respect to claim 26 or claims dependent thereon.

Independent claim 29 includes limitations that are similar to claim 26. Thus, for at least the reasons explained above, it is respectfully submitted that a *prima facie* case of obviousness has not been established with respect to claim 29 or its dependent claims.

It is believed that the application is in condition for allowance. Thus, the Examiner's prompt attention in accordance therewith is respectfully requested.

Respectfully submitted,

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